

Appl. No. 10/517,322
Amendment dated: April 28, 2008
Reply to OA of: March 26, 2008

REMARKS

Applicants have amended the claims to more particularly define the invention taking into consideration the outstanding restriction requirement and to place the claims in better condition for an examination on the merits. Claim 1 has been amended to remove the unnecessary word "have" and claim 7 has been canceled without prejudice or disclaimer. Claim 7, if placed in proper form as a method claim would be in the Group 3 method.

The cancellation of the claim 7 from the application limits the claims as grouped to two invention and therefore the restriction requirement is between the Group I invention directed to a product and including claims 1-6 and the Group III invention directed to a method of using the product and including claims 8-11. The Group I invention is elected with traverse and subject to the right to rejoinder with the method of use dependent thereon once the product claims are allowed in view of the statements in the Official Action.


US 2002/0009812 patent application cited by the Examiner as a proof that the groups of claims (I, II, III) lack a common inventive concept under PCT Rule 13.1 has been carefully considered. The Official Action urges that this document anticipates the product of claim 1. This statement is specifically traversed. Applicants do not agree with the Examiner's conclusion. The cited reference does not anticipate the product of claim 1, the lowest number of carbon atoms that the linker molecules contain is 4 (see e.g., par. 105, N-(4-aminobutyl) normorphine), while present claim 1 states that the linker molecule contains an aliphatic carbon chain of no more than 3 carbon atoms (1, 2 or 3). The reason for this is stated in the present application in several paragraphs, e.g., §0012, §0043 - §0045 (according to the published US application, US 2006/0105471). From this it is evident that the linker group in the coating must be less than 3 carbons in order to obtain the desired affinity to the antibody, otherwise there will not be any significant displacement of antibody upon exposure to the analyte. In

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addition, the claimed subject matter is unobvious over this reference. Accordingly, it is most respectfully requested that the restriction requirement be withdrawn.

In any case, an early and favorable action on the merits to the Group I invention is now in order and is most respectfully requested.

Respectfully submitted,
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